

EXHIBIT A



February 25, 2019

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VIA FOIA Online

Federal Communications Commission
Attn: William Knowles-Kellett
445 12th Street, SW
Washington, DC 20554

Re: FOIA Request File No. EB-IHD-16-00023247

Dear Mr. Knowles-Kellett:

We are litigation counsel to over seventy-five rural telephone carriers from states across the country who have joined forces to investigate and address T-Mobile's abusive practice of inserting false ring tones into calls destined for their customers and T-Mobile's failure to adequately oversee the intermediate carrier it contracted to deliver T-Mobile's calls to these rural destinations. On behalf of this coalition of rural carriers, pursuant to the Freedom of Information Act ("FOIA"), we submit the attached requests for information, which seek access to the documents obtained and considered by the Enforcement Bureau in its investigation of T-Mobile's conduct that led to the Consent Decree issued on April 16, 2018. See *In the Matter of T-Mobile USA, Inc.*, Order and Consent Decree, DA 18-373 (April 16, 2018).

As detailed in the Consent Decree, since 2012 the Commission has recognized a "pattern of call completion and service quality problems on long distance calls to certain rural areas," "particularly in rural areas served by rate-of-return carriers where the costs that long distance providers incur to complete calls are generally higher than in non-rural areas." Consent Decree, ¶ 3 (quoting Rural Call Completion Declaratory Ruling, 27 FCC Rcd. 1351, 1354 (2012)). Our clients have had to repeatedly confront these challenges. The rural call completion problems have impacted their businesses and damaged their reputations, while causing countless problems for consumers throughout the country. Meanwhile, by inserting illegal false ring tones and/or engaging in routing practices that had the effect of restricting traffic, T-Mobile likely avoided tens or hundreds of millions of dollars in terminating access charges it was required to pay. Thus, while these carriers are grateful for the efforts taken by the Commission to investigate and expose T-Mobile's illegal activities, the Consent Decree did not compensate the rural carriers whose businesses were directly harmed by T-Mobile's unjust and reasonable practices. These carriers that have been impacted directly by T-Mobile's unlawful practices must be empowered to pursue their own remedies against T-Mobile, both to correct the prior harms and to deter any similar actions by T-Mobile or other carriers in the future.

Access to the information obtained by the Commission will enable these parties to pursue their lawful remedies by gaining greater insights into the calls that did not reach their networks, and thus their intended recipients. Disclosure of this information is also in the public interest because rural customers and carriers have no way of knowing the volume of calls that were never completed; only T-Mobile and the Commission possess this information. Anecdotal complaints made by rural customers who know



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they did not receive important business or personal calls attempted by T-Mobile customers, however, suggests that T-Mobile's practice was pervasive and widespread. Thus, not only do the rural carriers have a compelling interest in obtaining this information, but rural customers and the T-Mobile customers who paid for service by were unable to communicate with businesses and family members in rural areas share in the same public interest of exposing the full scope of T-Mobile's unlawful conduct.

For these reasons, we respectfully encourage the Commission to disclose as much of the materials obtained during its investigation as possible, especially T-Mobile's Call Detail Records (CDR) reflecting call answer rates for rural OCNs, documentation of the OCNs affected by the false ring tone practice and the basis for the Consent Order's estimation that T-Mobile, "likely injected [false ring tones] into hundreds of millions of calls each year." We also encourage the Commission to carefully scrutinize any requests for confidential treatment that T-Mobile makes with regard to the materials in the docket, and to balance such requests against T-Mobile's express admissions in the Consent Order that it "(a) violated Section 64.2201's prohibition against the insertion of false ring tones; and (b) did not correct problems with its Intermediate Providers' delivery of calls to consumers in certain rural OCNs." *See, e.g., Center for Public Integrity v. Dep't of Energy*, 234 F. Supp. 3d 65, 76 (D.D.C. 2017) (FOIA's exemptions "cannot be used to shield illegal business practices under the guise of confidential business information"). It is hard to imagine that T-Mobile will be able to demonstrate risk of "substantial competitive harm" resulting from disclosure of the information sought by these requests, because evidence of admitted illegal practices is not deserving of competitive protections. *See* 47 C.F.R. § 0.459(b)(5).

Should you have any questions regarding this request, please do not hesitate to contact us.

Sincerely,

Womble Bond Dickinson (US) LLP

G. David Carter
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Partner



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FOIA DOCUMENT REQUESTS

1. Please produce all documents in the File No. EB-IHD-16-00023247.
2. All compliance reports, if any, submitted to the Commission by T-Mobile pursuant to the Consent Decree, *In the Matter of T-Mobile USA, Inc.*, Order and Consent Decree, DA 18-373 (April 16, 2018).
3. All reports and supporting information submitted by T-Mobile USA, Inc. to the Commission pursuant to Section III(A)(4) of the Commission's Report and Order issued in *In The Matter Of Rural Call Completion*, WC Docket No. 13-39, FCC 13-135 (Nov. 8, 2013).